

## **REMARKS**

Claims 1-7 are currently pending. In an Office Action dated July 19, 2007, the Examiner rejected claims 1, 2, and 4 under 35 U.S.C. §103(a) as being unpatentable over Kokko (U.S. patent no. 5,790,534) in view of Applicant's Admitted Prior Art (AAPA). The Examiner rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and further in view of Simonsson (U.S. patent no. 6,950,669), rejected claims 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and further in view of Uesugi (U.S. patent application no. 2003/0072266), and rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and Uesugi and further in view of Simonsson. The rejections and objections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 1, 2, and 4 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA. Specifically, the Examiner contended that Kokko teaches a method used in a base site (FIG. 1) that comprises determining a radio frequency (RF) load metric corresponding to a base site (BS) (FIG. 1, elements 4B and 4C) and comparing the determined RF load metric to an RF load threshold to produce a comparison (col. 6, lines 34-46). The Examiner contended that Kokko further teaches determining whether the BS has adequate resources to handle transmissions to/from mobile stations. The Examiner acknowledged that Kokko fails to teach that the resources are a jitter buffer depth, but contended that AAPA teaches that a BS includes a jitter buffer. The Examiner then contended that it would have been obvious to combine the jitter buffer in the BS of the AAPA as part of the resources in the BS in Kokko considered in determining whether a system overload will occur. The applicant respectfully disagrees with the Examiner's application of prior art to the pending application.

Claim 1 has been amended to provide for determining a jitter buffer depth target of a receiving mobile station based on a comparison of a determined RF load metric to an RF load threshold. As acknowledged by the Examiner, Kokko teaches nothing concerning jitter buffers as the only buffers taught by Kokko are buffers for storing data packets about to be transmitted. In fact, Kokko merely teaches pre-transmission control

of a communication at a transmitting end, that is, a determining of whether to allocate a channel to the transmitting end for a transmission. Once the channel is allocated, the teachings of Kokko end. By contrast, claim 1 teaches post-transmission control of a communication at a receiving end, that is, a depth of a jitter buffer that receives data and effectuates a playing out of the received data. As Kokko merely teaches making pre-transmission adjustments at a transmitting end, Kokko cannot be considered to teach any basis for making of adjustments associated with a post-transmission of data at a receiving end of a communication, that is, in a jitter buffer that stores the data at the receiving end.

Therefore, neither Kokko nor AAPA, individually or in combination, teach the features of claim 1 of determining a jitter buffer depth target of a receiving mobile station based on a comparison of a determined RF load metric to an RF load threshold. Accordingly, the applicant respectfully requests that claim 1 may now be passed to allowance.

The Examiner rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and further in view of Simonsson, acknowledging that Kokko fails to teach, but contending that Simonsson teaches, determining to transmit frames at a lower power level when a determined RF load metric is greater than an RF load threshold (col. 7, lines 50-52). To the contrary, nothing in Simonsson indicates that Simonsson is teaching anything other than the opposite and well-known concept of increasing a transmit power when a system is congested (high RF load/high interference) in order to better assure that a signal is correctly received. By contrast, Claim 3, as amended, teaches determining to transmit frames at a lower power level when a determined RF load is greater than the RF load threshold. As claim 3 teaches the opposite of the teaching of Simonsson, none of Kokko, AAPA, or Simonsson teaches this feature of claim 3.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and Uesugi and further in view of Simonsson, similarly contending that Simonsson teaches determining to transmit frames at a higher power level when a determined RF load metric is lower than an RF load threshold (col. 7, lines 51-58). Again and to the contrary, nothing in Simonsson indicates that Simonsson is

teaching anything other than the opposite and well-known concept of decreasing a transmit power when a system is unloaded (low RF load/low interference), as a lower signal power then may be applied to implement acceptable reception. By contrast, claim 6, as amended, teaches determining to transmit frames at a higher power level when the determined RF load is less than the RF load threshold. None of Kokko, AAPA, Uesugi, or Simonsson teaches this feature.

For the above reasons, and since claims 2-7 and newly added claims 12 and 13 depend upon allowable claim 1, the applicant respectfully requests that claims 2-7, 12, and 13 may now be passed to allowance.

As the applicant has overcome all substantive rejections and objections given by the Examiner and has complied with all requests properly presented by the Examiner, the applicant contends that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicant respectfully solicits allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter. Furthermore, please charge any additional fees (including extension of time fees), if any are due, or credit overpayment to Deposit Account No. 50-2117.

Respectfully submitted,  
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